

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

FILED

U.S. DISTRICT COURT
EASTERN DISTRICT OF TEXAS

JUN 27 2007

DAVID J. MALAND, CLERK

BY
DEPUTY

CASE NO. 4:07cr69

UNITED STATES OF AMERICA

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v.

ROGER PATRICK

MARQUEZ DE LA PLATA

**REPORT AND RECOMMENDATION
OF UNITED STATES MAGISTRATE JUDGE**

Pending before the Court is the request for revocation of Defendant's supervised release. After the District Court referred the matter to this Court for a report and recommendation, the Court conducted a hearing on June 12, 2007, to determine whether the Defendant violated his supervised release. The Defendant was represented by Brian O'Shea. The Government was represented by Maureen Smith.

On September 11, 2002, the Defendant was sentenced by the Honorable Jorge A. Solis, United States District Judge, Northern District of Texas, to twenty-eight (28) months custody followed by a three (3) year term of supervised release for the offense of Conspiracy to Embezzle from a Health Care Plan. On October 12, 2004, the Defendant completed his period of imprisonment and began service of his supervised term. On February 21, 2007, this cause was ordered transferred to the Eastern District of Texas, and on March 15, 2007, the Honorable Richard A. Schell, United States District Judge, Eastern District of Texas, accepted and assumed jurisdiction over Defendant.

On May 1, 2007, the U.S. Probation Officer filed a Petition for Warrant or Summons for Offender Under Supervision. The petition asserted that the Defendant violated the following

conditions: (1) Defendant shall report to the probation officer as directed by the Court or probation officer and shall submit a truthful and complete written report within the first five days of each month; (2) Defendant shall make restitution in the amount of \$135,407.81, jointly and severally, through monthly installments of at least \$200.

The petition alleges that the Defendant committed the following violations: (1) Defendant has failed to report in person to the U.S. Probation Office since July 20, 2006. The defendant failed to report for scheduled office visits on June 23, August 7, 28, October 18, 27, November 29, and December 14, 2006 and January 22 and March 20, 2007; (2) Defendant failed to submit written reports for the months of October, November, and December 2006, and January, February, and March 2007; (3) Defendant has failed to pay restitution as directed and is currently in default status. Defendant has not made a restitution payment since April 2006, and the current balance is \$129,864.64.

Prior to the Government putting on its case, the Defendant entered a plea of true to the alleged violations. At the hearing, the Court recommended that Defendant's supervised release be revoked.

RECOMMENDATION

The Court recommends that the District Court revoke the Defendant's supervised release. Pursuant to the Sentencing Reform Act of 1984, the Court recommends that the Defendant be committed to the custody of the Bureau of Prisons to be imprisoned for a term of eight (8) months, followed by twenty-eight (28) months of supervised released. The Court further recommends that

Defendant's term of imprisonment be carried out in the Bureau of Prisons facilities located in Seagoville, Texas.

SIGNED this 25 day of June, 2007.



DON D. BUSH
UNITED STATES MAGISTRATE JUDGE